

## CIRCULAR NO 564.

### MILITARY SERVICE BY HOMESTEADERS DURING WAR. ACT OF JULY 28, 1917 (PUBLIC NO. 32).

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#### INSTRUCTIONS.

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DEPARTMENT OF THE INTERIOR,  
GENERAL LAND OFFICE,  
*Washington, D. C., August 22, 1917.*

*Registers and Receivers,  
United States Land Offices:*

SIRS: The act of July 28, 1917 (Public No. 32), provides:

That any settler upon the public lands of the United States, or any entryman whose application has been allowed, or any person who has made application for public lands which thereafter may be allowed under the homestead laws, who, after such settlement, entry, or application, enlists or is actually engaged in the military or naval service of the United States as a private soldier, officer, seaman, marine, national guardsman, or member of any other organization for offense or defense authorized by Congress during any war in which the United States may be engaged, shall, in the administration of the homestead laws, have his services therein construed to be equivalent to all intents and purposes to residence and cultivation for the same length of time upon the tract entered or settled upon; and hereafter no contest shall be initiated on the ground of abandonment, nor allegation of abandonment sustained against any such settler, entryman, or person unless it shall be alleged in the preliminary affidavit or affidavits of contest and proved at the hearing in cases hereinafter initiated that the alleged absence from the land was not due to his employment in such military or naval service; that if he shall be discharged on account of wounds received or disability incurred in the line of duty, then the term of his enlistment shall be deducted from the required length of residence, without reference to the time of actual service: *Provided*, That no patent shall issue to any homestead settler who has not resided upon, improved, and cultivated his homestead for a period of at least one year.

SEC. 2. That any settler upon the public lands of the United States, or any entryman whose application has been allowed, or any person who has made application for public lands which thereafter may be allowed under the homestead laws, who dies while actually engaged in the military or naval service of the United States, as a private soldier, officer, seaman, marine, National Guardsman, or member of any other organization for offense or defense authorized by Congress during any war in which the United States may be engaged, then his widow, if unmarried, or in case of her death or marriage, his minor orphan children, or his or their legal representatives, may proceed forthwith to make final proof upon such entry or application thereafter allowed, and shall be entitled to receive Government patent for such land; and that the death of such soldier while so engaged in the service of the United States shall, in the administration of the homestead laws, be construed to be equivalent to a performance of all requirements as to residence and cultivation upon such homestead.

## WHO ENTITLED TO CREDIT FOR MILITARY SERVICE.

2. The present war began, as to the United States, April 6, 1917. The special privileges given by the act accrue, as to each homestead claimant, on that date if he was already in the United States service; otherwise from the time, after that date, when he enlisted or shall enlist in the United States Army, Navy, or Marine Corps, or when, as a member of any other organization for offense or defense authorized by Congress, he was or shall be mustered into or engaged in the military or naval service of the United States. The benefits of the act do not extend to any persons not engaged in the service for offense or defense as set forth therein. In these instructions the word "soldier" will be used to indicate any person coming within the purview of the act.

3. The benefits of the act are conferred upon a person who, before going into the service, had actually made a homestead entry, had effected and maintained a valid settlement upon a tract properly subject to entry by him, or had filled an allowable application for the land. This last includes one who had filed a petition for designation under the enlarged homestead act or the stock-raising homestead law, accompanied by an application to enter, provided his entry be allowed pursuant to a designation made while the war lasts, and credit will be given for the service of such soldier had after the date of the designation. The act does not protect any entry from cancellation on account of defaults of the homesteader occurring before he went into the service.

## PERIOD OF CREDIT ALLOWED—RESIDENCE REQUIRED.

4. A soldier is entitled to credit on the residence and cultivation prescribed by the homestead law for the time of his service during the war; but one whose discharge is on account of wounds received or disability incurred in the line of duty is entitled to credit for the entire term of his enlistment, without reference to the time of actual service. However, the homesteader will be required to show at least one year's residence and cultivation in connection with his entry, regardless of the length of his service or the fact that he has been discharged on one of the grounds indicated. During each year's residence which he may be required to show he is entitled to the five months' absence privilege like other homesteaders.

## RIGHTS OF WIDOW, MINOR CHILDREN, HEIRS, OR DEVISEES.

5. If the soldier dies while actually engaged in the military or naval service of the United States, his widow, if unmarried, may at once submit proof on his entry, if one has been made; if there is no widow, or she has remarried, his minor children may, through their guardian, thus submit the proof; and if he leaves no widow, or the widow has remarried, and if all of his children, if any there be, are not minors, then proof may be submitted by his heirs in general or by his devisees, as the case may be.

In the event the soldier had not made entry for the land claimed, then the right to make entry therefor and submit proof accrues to the parties indicated at once or as soon as the land becomes subject to entry. In such proof it will be necessary only to prove the identity of the entryman, settler, or applicant with the soldier; that he died while actually engaged in the service, and that the person or persons submitting proof bear to him one of the relations mentioned. When the claim is based on settlement only, the facts with respect thereto must be shown, otherwise the manner and method of submitting final proof will follow the usual practice.

NO CREDIT WHERE CLAIM INITIATED AFTER ENTERING SERVICE.

6. Neither this act nor any other legislation contains a provision by which a person who initiates a homestead claim, by filing application or by making settlement on public land, *after* entering the Army, Navy, or Marine Corps, or other organization in the present war, may obtain credit in connection therewith on account of his service.

CONTEST—MUST PROVE ABSENCE NOT DUE TO MILITARY SERVICE.

7. No application hereafter filed to contest a homestead entry on the ground of abandonment will be allowed by you unless there is an allegation therein that the entryman's alleged absence from the land was not due to his employment in the Army, Navy, or Marine Corps, or other organization described in the act. No allegation of abandonment will be sustained against a homestead settler in connection with a contest initiated after April 6, 1917, unless it has been proved at the hearing, if one be had, that the entryman's alleged absence from the land was not due to his employment in military or naval service as indicated.

NOTICE TO LAND DEPARTMENT OF ENTERING MILITARY SERVICE.

8. While the law thus protects entrymen engaged in the military service from contests against their entries on the ground of abandonment and it is not obligatory upon them to advise the Land Department as to their reasons for leaving their claims, it is advisable that each shall notify the local United States Land Office of the facts in that regard.

FINAL PROOF BY ENTRYMAN IN MILITARY SERVICE.

9. The entryman, if desirous of submitting proof, may give his own testimony before any officer authorized to administer oaths and having an official seal at the place where he is then stationed, but the testimony of the witnesses must be taken within the proper county or land district and publication and posting of notice must be duly made. It is not obligatory upon the homesteader thus to submit the proof, though the period given by law for its submission be about to expire; he will be allowed a reasonable time after his discharge for that purpose.

## SETTLER ON UNSURVEYED LAND—NOTICE OF ENLISTMENT.

10. Following the practice under the provisions of the act of July 3, 1916 (39 Stat., 341), any qualified person who in good faith makes settlement upon and improves unsurveyed, unreserved, unappropriated public land of the United States with intention to enter it under the homestead laws after survey thereof, who has plainly marked on the ground the exterior boundaries of the tract claimed by him, and who, as a soldier, becomes entitled to the benefits of the act of July 28, 1917, may file at the local United States Land Office a notice of his enlistment and that he claims the benefits of that act. A tract is regarded as unsurveyed within the meaning of the homestead laws until a survey has been accepted and the plat thereof filed.

11. You will give the current serial numbers to such notices, make due record of them on your serial number registers, with a plain notation at the top of the page that no entry has been made, and will forward the notices with your monthly returns. You will also make note of such papers on your tract books where the description of the land is given therein by section, township, range, and legal subdivisions.

## CIRCULAR NO. 506 NOT SUPERSEDED.

12. These instructions do not supersede those of September 27, 1916 (Circular 506, 45 L. D., 488), relating to special privileges accorded homestead settlers on account of military service rendered in connection with operations in Mexico or along the border thereof or in mobilization camps elsewhere.

Very respectfully,

CLAY TALLMAN, *Commissioner*.

Approved:

ALEXANDER T. VOGELSANG,  
*First Assistant Secretary.*